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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,047	05/03/2001	Magdalena Blaszczyk-Thurin	WST93AUSA	8220
270	7590	09/13/2004	EXAMINER	
HOWSON AND HOWSON ONE SPRING HOUSE CORPORATION CENTER BOX 457 321 NORRISTOWN ROAD SPRING HOUSE, PA 19477			SNEDDEN, SHERIDAN	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/831,047	Applicant(s) BLASZCZYK-THURIN, MAGDALENA	
	Examiner Sheridan K Snedden	Art Unit 1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 8/11/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,6,8,9 and 45-66 is/are pending in the application.
 4a) Of the above claim(s) 49-51 and 56-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,6,8,9,45-48,52-55 and 59-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/11/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. This Office Action is in response to Paper filed 11 August 2004. Applicant's cancellation of claims 1-2, 4-5, 7, 10-44 and addition of new claims 45-64 is acknowledged. Claims 3, 6, 8-9 and 45-66 are pending.

2. Newly submitted claims 49-51 and 56-58 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Absent factual statement/evidence to the contrary, each different peptide sequence is considered distinct and/or independent, one from the other on the basis of physical, chemical and biological properties and function(s).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 49-51 and 56-58 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Claims 3, 6, 8-9 and 45-48, 52-55 and 59-66 are under examination.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 3, 9, 45, and 59-66 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims are directed to polypeptides of an unspecified structure between 7 and 15 amino acids that would mimic an unspecified function of a carbohydrate ligand. Thus, the claims fail to define any critical or essential structure and function of the claimed genus of peptides. In light of these considerations, applicant does not have possession of all polypeptides that mimic carbohydrate ligands.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 6, 8-9, 45-48, 52-55 and 59-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 52, 59 are indefinite because it is unclear as to which property or function, consistent with the essential utility of the invention, is mimicked. Claims 6, 8, 9, 45-48, and 55 depend from claim 3 and are also indefinite as they do not clarify the ambiguity. Claims 53-54 depend from claim 53 and are also indefinite as they do not clarify the ambiguity. Claims 60-64 depend from claim 53 and are also indefinite as they do not clarify the ambiguity.

The phrase "a peptide or polypeptide of a carbohydrate Lewis antigen ligand of the adhesion molecule E-selectin.

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Claim 9, 47, 53 are indefinite because it is unclear how the peptide is modified.

Conclusion

5. No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan K Snedden whose telephone number is (571) 272-0959.

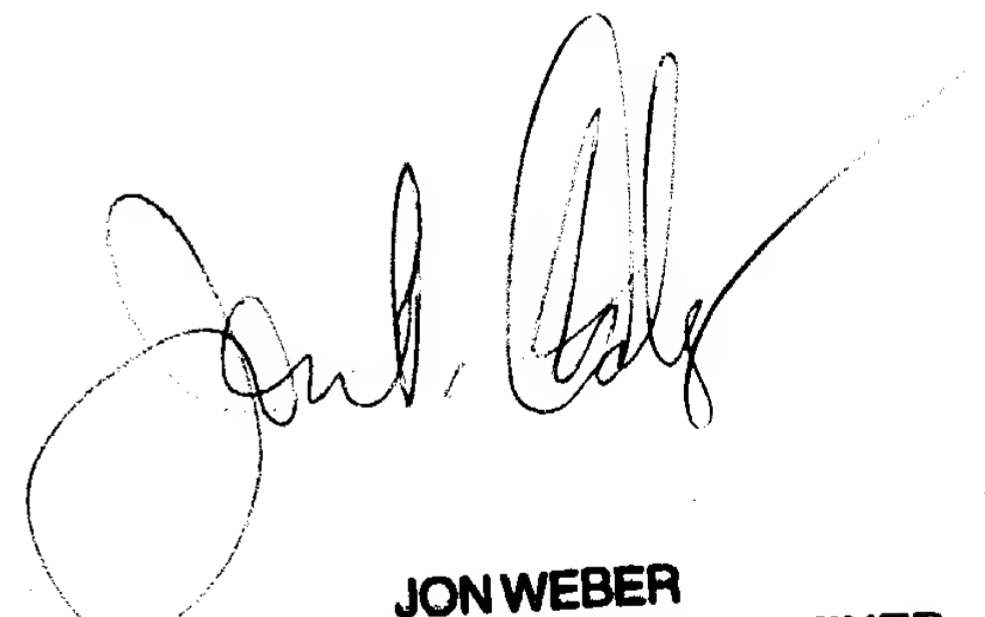
The examiner can normally be reached on Monday - Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on (571) 272-0925. The fax phone number for regular communications to the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

SKS
September 2, 2004

SKS



JON WEBER
SUPERVISORY PATENT EXAMINER